

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

DAREX ANTONIO CHESTER

PETITIONER

V.

CAUSE ACTION NO. 5:18-CV-36-DCB-FKB

PELICIA HALL, Commissioner of MDOC

RESPONDENT

ORDER

Before the Court is Petitioner Darex Antonio Chester ("Chester")'s Application for Certificate of Appealability (Doc. 25). For reasons<sup>1</sup> below, the motion is DENIED.

A Certificate of Appealability should issue if a petitioner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473 (2000). The Court already determined that a Certificate of Appealability ("COA") should not issue in this action because Chester has failed to make a substantial showing of a denial of a constitutional right. See Doc. 13. Therefore, Chester's motion (Doc. 25) will be DENIED.

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<sup>1</sup> The Court assumes familiarity with its previous Order Denying Motion for Hearing (Doc. 19), Order Adopting Report and Recommendation (Doc. 11), Final Judgment (Doc. 12), and Denial of Certificate of Appealability (Doc. 13).

The Fifth Circuit Court of Appeals may make a COA determination and consider whether Chester has made a substantial showing of the denial of a constitutional right. Miller-El v. Cockrell, 537 U.S. 322, 342 (2003) ("The question is the debatability of the underlying constitutional claim, not the resolution of that debate."); see Houser v. Dretke, 395 F.3d 560, 562 (5th Cir. 2004) (denying the petitioner's request for a Certificate of Appealability, explaining that "if the district court pleadings, the record, and the COA application demonstrate that reasonable jurists could debate whether the petitioner has made a valid claim of a constitutional deprivation, a COA will issue. If those same materials make it clear that reasonable jurists could not debate whether the petitioner has made a valid claim of a constitutional deprivation, the COA will be denied.").

Accordingly,

IT IS HEREBY ORDERED that Petitioner Darex Antonio Chester's Application for Certificate of Appealability (Doc. 25) is DENIED.

SO ORDERED this the 12th day of June, 2019.

/s/ David Bramlette  
UNITED STATES DISTRICT JUDGE